

REMARKS

This is a full and timely response to the final Office Action (Paper No./Mail Date 050616) mailed on June 30, 2005. Claims 38-50, 56-60, and 70-73 are currently pending. Reconsideration and allowance of the Application and present claims are respectfully requested.

I. Priority

Applicants greatly appreciate the Examiner's statement in the previous Office Action (Paper No./Mail Date 041102) in which claims 38-50 and 56-60 receive the benefit of the filing date of June 11, 1999. Regarding whether claims 70-73 receive the benefit of the filing date of June 11, 1999, Applicants are not addressing the validity of all assertions made in the Office Action. Therefore, Applicants should be not presumed to agree with any statements made in the Office Action whether claims 70-73 receive the benefit of the filing date of June 11, 1999 unless otherwise specifically indicated by Applicants.

II. Drawings

The drawings are objected to under 37 CFR 1.83(a). Applicants respectfully assert that the application on, for example, page 32, line 27 to page 33, line 5, discloses the newly added limitation. It should be noted that the newly added limitation may be disclosed in other sections of the application. Applicants respectfully believe that the application provides adequate support for the newly added limitation and that changes to Figs. 5 and 6 as suggested by the Examiner are not needed.

III. Claim Objections and Rejection under 35 U.S.C. §112

Claims 70-73 stand objected to because the usage of the term "session" is allegedly inconsistent with the previous recitation of "active session." Claims 71 and 73 stand objected to because the usage of the term "the most recently viewed current rental to the least recently viewed current rentals" allegedly lacks proper antecedent basis to the earlier recitation in claims 38 and 56 respectively. In addition, claims 71 and 73 stand rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement. Applicants

have amended claims 70-73 to overcome the objection and rejection, and respectfully request that the objection and rejection be withdrawn.

IV. Claim Rejections under 35 U.S.C. §102

Claims 38-50, 56-60, and 70-73 stand rejected under 35 U.S.C. §102(f) because Applicants allegedly did not invent the claimed subject matter. Applicants respectfully maintain that the current inventors on record are indeed the correct inventors and that Timothy Addington is not an inventor of the claimed invention, even with the newly added limitations. While Mr. Addington was involved in some system architecture aspects of session initiation and termination, Mr. Addington was not involved in developing the claimed invention that includes interaction with a user to determine whether to start or end a session of a VOD application as recited in the claims.

V. Claim Rejections under 35 U.S.C. §103

Claims 38-41, 56, 57, and 70-73 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,166,730 to *Goode, et al.* in view of U.S. Patent No. 5,721,829 to *Dunn, et al.*

In order for a claim to be properly rejected under 35 U.S.C. §103, the teachings of the reference must suggest all steps/elements/features of the claimed invention to one of ordinary skill in the art. *See, e.g., In re Dow Chemical*, 837 F.2d 469, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988); *In re Keller*, 642 F.2d 413, 208 U.S.P.Q. 871, 881 (C.C.P.A. 1981).

A. Claim 38

Claim 38, as amended, recites:

38. A method comprising the steps of:
 - determining if at least one current rental exists;
 - responsive to determining that at least one current rental does exist, determining whether an active video-on-demand (VOD) session for a first VOD presentation exists;
 - providing a selectable option to view the first VOD presentation responsive to determining that the active VOD session exists;

responsive to determining that the at least one current rental exists and a previously active VOD session has been torn down for the first VOD presentation, determining whether the first VOD presentation has been reactivated;

responsive to determining that the first VOD presentation was reactivated, setting up another active VOD session for the first VOD presentation;

responsive to establishing another active VOD session for the first VOD presentation, providing a VOD current rental screen having a VOD title of the first VOD presentation, information on the length of time remaining on the VOD title, and information on the rental time duration remaining for viewing the VOD title; and

providing a list of selectable VOD titles responsive to determining at least one current rental does not exist.

(Emphasis Added)

- i. The cited references of record fails to disclose or suggest the feature of “responsive to establishing another active VOD session for the first VOD presentation, providing a VOD current rental screen having a VOD title of the first VOD presentation, information on the length of time remaining on the VOD title, and information on the rental time duration remaining for viewing the VOD title”, as recited in claim 38.

Applicants have amended the claims to include the feature of “responsive to establishing another active VOD session for the first VOD presentation, providing a VOD current rental screen having a VOD title of the first VOD presentation, information on the length of time remaining on the VOD title, and information on the rental time duration remaining for viewing the VOD title”, as recited in claim 38. Consequently, because the cited references of record fail to disclose, teach, or suggest the above-quoted feature, Applicants respectfully submit that claim 38 be allowed and the rejection be withdrawn for at least this reason, among others.

Applicants respectfully submit that the application provides adequate support for the above-quoted feature of claim 38 on page 27, line 33 – page 39, line 20 of the application. It should be noted that the above-quoted feature may be disclosed in other sections of the application.

- ii. The cited references of record fails to disclose or suggest the feature of “responsive to determining that the at least one current rental exists and a previously active VOD session has been torn down for the first VOD presentation, determining whether the first VOD presentation has been reactivated; responsive to determining that the first VOD presentation was reactivated, setting up another active VOD session for the first VOD presentation”, as recited in claim 38.

In fact, *Goode* appears to disclose in FIG. 11 as follows:

“a flow diagram of a method for updating an active program screen within a multiple set top terminal environment. An active program screen (or saved movie screen) comprises a list of movie of information stream titles previously selected by a user, that are, presumably, associated with respective open sessions billed against the user's account number. The active program screen is displayed upon the user's display device such that the user may select a presently open (i.e., "active") session for presentation, e.g., finish watching a movie before the use timer expires. Therefore, the active programs comprise movies or other information streams that the user has paid for and has not fully utilized.

...

At task 1110 the session control manager, in response to the user selection at task 1105, determines which sessions associated with the user's account number are, in fact, open. For example, the session control manager may examine all of the existing session tables (620) that include a user account number (621) that is the same as the users account number (611) and have use timer (623) and view timer (624) parameters that have not yet expired. The method 1100 then proceeds to task 1115.

At task 1115 the session control manager removes any open sessions in use by another set top terminal associated with the user's account. That is, the SCM removes from the "active program list" any of the open sessions determined at task 1110 that are presently being viewed by, e.g., someone using another set top terminal associated with the user's account number.”

(Emphasis Added, *Goode*, column 17, line 55 – column 18, line 20).

Goode appears to disclose “updating an active program screen within a multiple set top terminal environment” in relation to Fig. 11. (*Goode*, col. 17, lines 55-57). Nowhere does *Goode* teach or suggest establishing a VOD session for a VOD presentation based on a rental and establishing another VOD session that is active for the VOD presentation despite a previously active VOD session has been torn down even when the rental still exist.

In addition, *Dunn* is merely used to show “a VOD system that ‘determines if at least one current rental exists’ and ‘responsive to determining that at least one currently rental does not exist’ it ‘provides a list of selectable VOD titles.’” (*Dunn*, column 7, lines 20-34). In fact, *Dunn* discloses the step of determining whether an unfinished program exists. (Step 204 of Fig. 7, Column 7, lines 25-28). Applicants respectfully submit that *Dunn* also fails to disclose, teach, or suggest the features of “responsive to determining that the at least one current rental exists and a previously active VOD session has been torn down for the first VOD presentation, determining whether the first VOD presentation has been reactivated; responsive to determining that the first VOD presentation was reactivated, establishing another VOD session that is active for the first VOD presentation,” as recited in claim 38.

Consequently, because *Goode* and *Dunn*, both in combination and individually, fail to disclose, teach, or suggest the above-quoted features, Applicants respectfully submit that claim 38 be allowed and the rejection be withdrawn for at least this reason, among others.

B. Claim 56

Claim 56, as amended, recites:

56. A digital home communication terminal (DHCT) comprising:
memory; and
program code stored in said memory and configured to enable the DHCT to,
determining if at least one current rental exists,
responsive to determining that at least one current rental does exist, determine whether an active video-on-demand (VOD) session for a first VOD presentation exists,
provide a selectable option to view the first VOD presentation responsive to determining that the active VOD session exists,
responsive to determining that the at least one current rental exists and a previously active VOD session for the first VOD presentation has been torn down, determining whether the first VOD presentation has been reactivated,
responsive to determining that the first VOD presentation was reactivated, setting up another active VOD session for the first VOD presentation,
responsive to establishing another active VOD session for the first VOD presentation, providing a VOD current rental

screen having a VOD title of the first VOD presentation, information on the length of time remaining on the VOD title, and information on the rental time duration remaining for viewing the VOD title, and

provide a list of selectable VOD titles responsive to determining that at least one current rental does not exist.

(Emphasis Added)

- i. The cited references of record fails to disclose or suggest the feature of “responsive to establishing another active VOD session for the first VOD presentation, providing a VOD current rental screen having a VOD title of the first VOD presentation, information on the length of time remaining on the VOD title, and information on the rental time duration remaining for viewing the VOD title”, as recited in claim 56.

Applicants have amended the claims to include the feature of “responsive to establishing another active VOD session for the first VOD presentation, providing a VOD current rental screen having a VOD title of the first VOD presentation, information on the length of time remaining on the VOD title, and information on the rental time duration remaining for viewing the VOD title”, as recited in claim 56. Consequently, because the cited references of record fail to disclose, teach, or suggest the above-quoted feature, Applicants respectfully submit that claim 56 be allowed and the rejection be withdrawn for at least this reason, among others.

Applicants respectfully submit that the application provides adequate support for the above-quoted feature of claim 56 on page 27, line 33 – page 39, line 20 of the application. It should be noted that the above-quoted feature may be disclosed in other sections of the application.

- ii. The cited references of record fails to disclose or suggest the feature of “responsive to determining that the at least one current rental exists and a previously active VOD session for the first VOD presentation has been torn down, determining whether the first VOD presentation has been reactivated, responsive to determining that the first VOD presentation was reactivated, setting up another active VOD session for the first VOD presentation”, as recited in claim 56.

As mentioned above with reference to claim 38, *Goode* appears to disclose “updating an active program screen within a multiple set top terminal environment” in relation to Fig. 11.

(*Goode*, col. 17, lines 55-57). Nowhere does *Goode* teach or suggest establishing a VOD session for a VOD presentation based on a rental and establishing another VOD session that is active for the VOD presentation despite a previously active VOD session has been torn down even when the rental still exist.

In addition, *Dunn* is merely used to show “a VOD system that ‘determines if at least one current rental exists’ and ‘responsive to determining that at least one currently rental does not exist’ it ‘provides a list of selectable VOD titles.’” (*Dunn*, column 7, lines 20-34). In fact, *Dunn* discloses the step of determining whether an unfinished program exists. (Step 204 of Fig. 7, Column 7, lines 25-28).

Consequently, because *Goode* and *Dunn*, both in combination and individually, fail to disclose, teach, or suggest the features of “responsive to determining that the at least one current rental exists and a previously active VOD session for the first VOD presentation has been torn down, determining whether the first VOD presentation has been reactivated, responsive to determining that the first VOD presentation was reactivated, establishing another VOD session that is active for the first VOD presentation,” Applicants respectfully submit that claim 56 be allowed and the rejection be withdrawn for at least this reason, among others.

C. Claims 39-50, 57-60, and 70-73

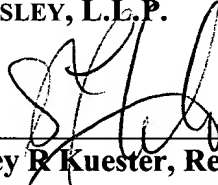
Because independent claims 38 and 56 are allowable over the cited art of record, dependent claims 39-50, 57-60, and 70-73 are allowable as a matter of law for at least the reason that dependent claims 39-50, 57-60, and 70-73 contain all features and elements of their respective independent base claims. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988). Accordingly, the rejection to dependent claims 39-50, 57-60, and 70-73 should be withdrawn for at least this reason, among others.

CONCLUSION

Any other statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and official notice, or statements interpreted similarly, should not be considered well-known since the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support such conclusions.

Applicants respectfully maintain that the currently pending claims are in condition for allowance. Should the Examiner have any comments or suggestions that would place the subject patent application in better condition for allowance, he is respectfully requested to telephone the undersigned attorney at (770) 933-9500.

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